

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

IN RE: SILICA PRODUCTS  
LIABILITY LITIGATION

MDL NO. 1553

*Elzey Arthur, et al. v. Pulmonum Safety Equipment, et al.*  
*Ronnie Parker, et al. v. Pulmonum Safety Equipment, et al.*

No. ~~02-03cv589~~

No. ~~02-03cv581~~

2:04cv347✓  
2:04cv339

**AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE**

This matter was brought on for hearing on the oral motion of Plaintiffs and Defendant, Schramm, Inc., to have the claims of Plaintiffs against Schramm, Inc. dismissed without prejudice. The Court having considered the motion and the agreement of the parties, finds as follows:


1. The claims of all Plaintiffs against Schramm, Inc. are dismissed without prejudice.
2. Each party is to bear its own costs and attorneys' fees.
3. Within a twelve month period of time from the date of this Order, Plaintiffs can move to amend the Complaint to re-name Schramm, Inc. as a defendant in any particular action, if the plaintiff determines that a Schramm, Inc. air compressor was used at a worksite where the plaintiff was allegedly exposed to silica dust.
4. If Schramm, Inc. is re-named as a defendant in any action, and the Plaintiff has been deposed prior to an Order being entered by the Court allowing the plaintiffs to amend the Complaint to re-name Schramm, Inc. as a defendant in said action, Schramm, Inc. will have the opportunity to re-depose that plaintiff at a mutually convenient time and place.

5. If Schramm, Inc. is re-named as a defendant in this action, Schramm, Inc. will have no less than six months from the date it was served with an Amended Complaint re-naming Schramm, Inc. until a trial is commenced in that separate action.

IT IS FURTHER ORDERED AND ADJUDGED this the 7<sup>th</sup> day of May, 2005.

  
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JANIS GRAHAM JACK  
UNITED STATES DISTRICT JUDGE

AGREED AND APPROVED:

  
\_\_\_\_\_  
John Foxworth, Jr.  
Attorney for Plaintiffs

  
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Charles R. Wilbanks, Jr.  
Attorney for Schramm, Inc.

*See: resolution to terminate order of dismissal 4-15-05 and its parties*